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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 OLUJIMI AWABH BLAKENEY,

8 Plaintiff,

9 v.

10 SUSAN KARR, et al.,

11 Defendants.

CASE NO. C13-5076 BHS

ORDER DENYING MOTION  
FOR RECONSIDERATION

12 This matter comes before the Court on Plaintiff Olujimi Awabh Blakeney's  
13 ("Blakeney") motion for reconsideration of this Court's order adopting the Report and  
14 Recommendation ("R&R") of the Honorable Karen L. Strombom, United States  
15 Magistrate Judge (Dkt. 47). Dkt. 54.

16 **I. PROCEDURAL & FACTUAL BACKGROUND**

17 On August 6, 2013, Defendants filed their Motion for Summary Judgment which  
18 was noted for September 6, 2013. Dkt. 35. On August 23, 2013, Blakeney filed a Motion  
19 for Extension of Time until September 23, 2013 to respond. Dkt. 38. On September 4,  
20 2013, Blakeney's request was granted. Dkt. 39. On September 23, 2013, Blakeney filed a  
21 second motion for extension of time. Dkt. 40. On October 4, 2013, by separate order,  
22 Magistrate Judge Karen Strombom, denied Blakeney's second motion to extend his

1 deadline to respond to Defendants' motion for summary judgment. Dkt. 46. On  
2 September 23, 2013, Blakeney filed motions to join additional claims (Dkt. 42) and to  
3 join additional defendants (Dkt. 43).

4 On October 4, 2013, Judge Strombom issued an R&R granting Defendants'  
5 motion for summary judgment because Blakeney failed to exhaust his administrative  
6 remedies. Dkt. 47. The Court did not reach Defendant' alternative substantive grounds  
7 for dismissal, finding that once it determined that a suit filed by a prisoner must be  
8 dismissed for failure to exhaust, a district court lacks discretion to resolve those claims on  
9 the merits. Accordingly, Blakeney's motions to join claims and parties (Dkts. 42 and 43)  
10 were denied as moot.

11 On October 21, 2013, Blakeney filed objections to Judge Strombom's R&R. Dkt.  
12 48. On the same day, he also filed a response to Defendants' motion for summary  
13 judgment and a cross-motion for summary judgment. Dkt. 49. On October 24, 2013,  
14 Defendants filed a reply to Blakeney's objections and a motion to strike his response to  
15 Defendants' motion for summary judgment. Dkt. 50.

16 On November 13, 2013, the Court adopted Judge Strombom's R&R. Dkt. 52. On  
17 November 25, 2013, Blakeney filed the instant motion for reconsideration. Dkt. 54.

## 18 II. DISCUSSION

19 Motions for reconsideration are governed by Local Rule CR 7(h), which  
20 provides as follows:

21 Motions for reconsideration are disfavored. The court will ordinarily  
22 deny such motions in the absence of a showing of manifest error in the

1 prior ruling or a showing of new facts or legal authority which could not  
2 have been brought to its attention earlier with reasonable diligence.

3 Local Rule CR 7(h)(1).

4 Blakeney argues that the Court erred in finding that he offered no reason which  
5 would sufficiently justify his delinquent response and motion. Dkt. 54 at 1-2. He states  
6 that he offered reasons in his second motion for extension of time while the case was  
7 pending before Judge Strombom. Dkt. 54 at 1-2. Although Blakeney did seek a second  
8 extension of time on the basis that he allegedly had limited access to the library and it  
9 was burdensome to obtain writing materials, he did not supply any further reasoning to  
10 this Court as to why he was he submitted a delinquent response and thus the Court found  
11 Judge Strombom's had not abused her discretion in denying Blakeney's second motion  
12 for continuance.

13 Moreover, Judge Strombom's decision to dismiss the case was based on  
14 Blakeney's failure to exhaust his administrative remedies. Based on a review of the  
15 record, this Court found that Judge Strombom's conclusion that Blakeney failed to  
16 exhaust his administrative remedies was correct. Dkt. 52 at 3. Thus, the Court found she  
17 properly dismissed his claims without prejudice. *Id.* Neither Blakeney's objections to  
18 his R&R, nor his motion for reconsideration properly challenged that basis for dismissing  
19 his case.<sup>1</sup>

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21 <sup>1</sup> Although Blakeney's objections to the R&R state that his belatedly filed response to  
22 Defendants' summary judgment motion and cross motion is "meant to complete []his  
objection[s]," the Court did not and does not consider those documents, as the Court found Judge  
Strombom did not abuse her discretion in denying Blakeney's second motion for a continuance.

1 Blakeney has not satisfied the burden necessary to grant his motion for  
2 reconsideration, as he has failed to show the Court committed a manifest error of law,  
3 and he has not provided new facts or legal authority which could not have been brought  
4 to its attention earlier with reasonable diligence.

5 **III. ORDER**

6 Therefore, it is hereby ordered that Blakeney's motion for reconsideration (Dkt.  
7 54) is **DENIED**.

8 Dated this 2nd day of January, 2014.

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11 BENJAMIN H. SETTLE  
12 United States District Judge  
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